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# Public Consultation on Draft Advice on Customer Complaint Handling, Reporting and Classification

**Ref: E09-CEM-26-03**

SWM is a multi-utility company owned by Munich City Municipality in Germany and citizen value is a central theme for SWM. It employs more than 7 thousand employees and has a turnover of about €4.7 billion. It provides a range of utility services to approximately 1.1 million customers:

- Energy services: electricity, district heating and natural gas supplies;
- Water supply services and 18 municipal swimming pools; and
- Local transportation: subway, bus and tram services.

80% of its power is produced by combined heat and power (CHP) plants, while 350 million kWh/year (4.3% of the total power production) is produced from renewable sources including nine hydroelectric power plants, one wind power plant, various solar plants and one geothermal power plant.

According to the national law the electricity and gas network is legally unbundled in the SWM Infrastruktur GmbH.

The Stadtwerke München GmbH appreciates the opportunity to comment on the draft of the ERGEG on Draft Advice on Customer Complaint Handling, Reporting and Classification. Please find enclosed our statements for the ERGEG-Recommendations:

## **1. Recommendations regarding service providers:**

### **1.1 Information on the bill on how to complain**

#### **- Recommendation 1:**

*Customers should be provided, on their bills, with the contact details of the service provider's customer service.*

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#### **- Recommendation 2:**

*Customers should be provided by their service provider with the relevant contact information of the relevant third party body in case they want to complain. The most convenient channels for contacting this reference point / dispute settlement body should be proposed, among the following options: address, phone number, website, email, face to face contact point.*

## **Our Comment:**

In our point of view it is sufficient to provide the customers in the bills only with the contact details of the service provider's customer service like stated in Recommendation 1. The legal system in Germany is highly sophisticated that there is no need for the customers to get informed as well by the service provider, which third party body is relevant. Furthermore the knowledge of the relevant consumer protection body in the population is that high that the information in the bill has no further value. This applies even more, if the single point of contact like proposed under Recommendation 8 will be implemented. Via this body a sufficient information about the dispute possibilities for the costumers is granted.

To reduce the administrative burden and therefore to reduce costs it would be sufficient in our point of view to add the information about the possibility to complain at a third party body in the Energy Consumer Checklist which should be provided just one time to the customer at the beginning of the supply contract or if the Energy Consumer Checklist has changed.

## **1.2 Choice of the complaint channel within service provider**

### **- Recommendation 3:**

*To submit a complaint to a service provider, a wide range of channels should be available, and, in any case, more than one.*

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## **1.3 Statutory complaint handling standards shared by all service providers**

### **- Recommendation 4:**

*Statutory complaint handling standards common to electricity and gas service providers should be in place. NRAs are best placed to set up these standards, after consultation with stakeholders, as appropriate, and to enforce them.*

*These standards should cover:*

- *In cases where a complaint has not been resolved immediately (within 1 day) service providers should provide details of their complaint handling procedures and redress scheme*

– if available – to the customers who are complaining as well as the information on alternative dispute settlement bodies, with the first acknowledgment of the complaint.

- *Lead time for a service provider to deal with a complaint:*

- *A prompt first answer or acknowledgement;*

- *Final answer either resolving the complaint to the customer's satisfaction or informing on the alternative dispute settlement body should be issued as soon as possible, but within two months<sup>5</sup>.*

- *Registration of customer complaints preferably using a common classification of the complaints (refer to recommendation 7).*

### **Our Comment:**

We welcome that the complaint handling standards should be common to electricity and gas and that there should be a stakeholder consultation when implementing complaint handling standards.

Regarding the statutory standards we think, that there is no need to provide the details of the complaint handling procedures and redress schemes, when the general information that consumer should use third party bodies to complain could be added like stated under cipher 1.1 in the Energy Consumer Checklist. The obligation to send these information in the case where a complaint has not been resolved within one day would lead to high costs because of the high administrative burden. But when implementing this obligation, the time to provide the listed information should not be within only one day, but within **three working days**.

When it comes to the registration of consumer complaints we want to point out, that there should only the qualified complaints be registered.

## **1.4 Service providers' redress schemes**

### **Recommendation 5:**

*Redress schemes should be in place to allow compensation in defined cases.*

### **Our Comment:**

When it comes to compensation rules it has to be ensured, that the compensation regulation for the redress schemes and future compensation rules in the incentive regulation are harmonised to mitigate the administrative burden and costs.

## **1.5 Compliance with alternative dispute settlement body's recommendations**

### **Recommendation 6:**

*Service providers should follow the alternative dispute settlement body's recommendations.*

### **Our Comment:**

We see the aim when implementing alternative dispute settlement that service providers should follow the alternative dispute settlement body recommendation. But only if there will be -like stated in the Justification of the recommendation- still the possibility to clarify the issue at the court, when the service provider can't follow the recommendation we agree with this point. The recommendation 6 should be formed as a desired goal, but it has to be made clear that the alternative dispute settlement recommendation aren't binding in any way.

## **1.6 Complaint data collection by NRA**

### **Recommendation 7:**

*When a regulator deems it appropriate to receive data on customer complaints, the service provider should give the regulator access to these data.*

### **Our Comment:**

When it comes to the collection of complaint data we want to stress that the duties and powers of the NRA is according to the 3rd Energy Package just to **monitor** the level and effectiveness of market opening and competition at wholesale and retail levels regarding the complaints by household customers. In any case the NRA has to ensure the confidentiality of commercially sensitive information. Furthermore the access to the relevant data on consumer complaints

should be given to the NRA in well-founded cases only, when the service provider and the customer couldn't come to a solution within an appropriate time.

## **2. Recommendations regarding third-party bodies:**

### **2.1 Single point of contact**

#### **Recommendation 8:**

*A single point of contact should deliver, in every country, free information and advice on consumer issues. Such a single point of contact could deliver, for example, information on: suppliers; different types of supply contracts; price comparisons; consumer rights; and how to complain. When the single point of contact receives complaints, it should be able to direct customers to the relevant body to handle their complaints. This service should be set either by government or the NRA (in some cases in cooperation with other bodies in charge of consumer issues). It should be available either by phone, email, written mail (letter or fax) or in person.*

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### **2.2 Prior contact with the service provider**

#### **Recommendation 9:**

*Before submitting a complaint to a third-party body, customers should first contact their service provider to explain their complaint and try to solve it directly with the provider. Even if the service provider is the first step in the complaint process, customers can naturally ask for information on their rights to an independent body (the single point of contact or an alternative dispute settlement body in case it also deals with information requests), before submitting their complaint to their service provider.*

#### **Our Comment:**

We welcome the idea, that customers should first contact their service provider to solve the related problem within the relevant parties, before submitting the complaint to a third-party body.

## **2.3 Choice of the complaint channel**

### **Recommendation 10:**

*To get in contact with a third-party body, a wide range of channels should be available, and, in any case, more than one, even if – at a later stage – a written document may be necessary for a formal procedure with alternative dispute settlement bodies.*

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## **2.4 Free access for all customers**

### **Recommendation 11:**

*Alternative dispute settlement should be made available for all household customers, preferably without charge or as inexpensively as possible irrespective of the financial amount of the dispute.*

### **Our Comment:**

We agree with the recommendation that alternative dispute settlement should be made available for all household customers. But when it comes to the point that the alternative dispute settlement should be preferable without charge we fear that there will be a high amount of unwarranted disputes to handle. As the ombudsmen in the alternative dispute settlements won't work for nothing the consequence of a dispute settlement of no charge will be that in the end the service providers are covered with the assaulted charges. This is completely against the common rules of the ordinary jurisdiction and will lead furthermore to higher costs in energy supply for all customers. Therefore we strongly recommend, that there will be charges as well for the alternative dispute settlements, being payed by the party, that loses the dispute.

## **2.5 Statutory complaint handling standards within third party bodies**

### **Recommendation 12:**

*Regarding third party bodies, the following complaint handling standards should be effective, in accordance with the above-mentioned Commission Recommendation and with 3<sup>rd</sup> Package legal provisions:*

- *A common classification of complaints should be used, as far as possible;*
- *Written complaint procedures should be determined within third parties, and made available to all customers. These procedures should include the communication of complaint to the service provider(s) before coming to a decision/recommendation;*
- *A prompt first answer or acknowledgement should be issued;*
- *A lead time to solve the complaint/dispute should be determined on a national basis.*

*Final recommendations from a third-party body should be issued as soon as possible, and according to a lead time which is proportionate to the level of complexity of the complaint.*

#### **Our Comment:**

If a single point of contact will be implemented like stated under recommendation 8 we would welcome if the complaint procedures are made available via this body and if the written complaint procedures are developed with the involvement of the service providers as relevant stakeholders of this process.

## **2.6 Financial compensation to customers**

### **Recommendation 13:**

*Customers whose complaint has been settled in their favour should be allowed a fair compensation from their service provider.*

#### **Our Comment:**

A compensation in form of money should only be allowed if the customer had a specific material damage. In case of immaterial damage there shouldn't be a compensation in form of money. Furthermore it has to be ensured that current or future national compensation rules for service providers (e.g. the German Regulation of Common Conditions for the Basic Supply of Household Customers and the Replacement Electricity Supply via the low voltage grid, "Verordnung über Allgemeine Bedingungen für die Grundversorgung von Haushaltskunden und



die Ersatzversorgung mit Elektrizität aus dem Niederspannungsnetz“) are harmonised with the rules under Recommendation 13.

See as well our comment for Recommendation 5.

## **2.7 Complaints data collection by NRAs**

### **Recommendation 14:**

*When a regulator deems it appropriate to collect data on customer complaints, the regulator should have the possibility to receive the relevant information from third parties as well as from service providers (refer to Recommendation 7)*

### **Our Comment:**

See our comment for Recommendation 7.

## **2.8 Complaints data publication**

### **Recommendation 15:**

*The NRA or another third-party body having responsibility on customer complaints could provide and publish reports on complaints they have received. Depending on the level of maturity of the retail market, the report could include information such as:*

- *Categories of complaints which most frequently appear;*
- *Proposals of best practices that could be followed by suppliers in their complaint handling processes;*
- *A list of ADR Board recommendations which have not been followed by service providers, including their names;*
- *A description of the complaint handling process within each service provider.*

*The frequency of reporting should be at least once per year.*

When implementing such a complaint data publication it should be made sure that only aggregated data are published and that the confidentiality of economically sensitive data and the involvement of the service provider when developing the structure of such reports is ensured.